

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
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PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing (day/month/year) 23 MAY 2007	
Applicant's or agent's file reference SAMMUT-09695	
FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/US04/37947	International filing date (day/month/year) 12 November 2004 (12.11.2004)
Priority date (day/month/year) 12 November 2003 (12.11.2003)	
International Patent Classification (IPC) or both national classification and IPC IPC: F41G 1/00(2006.01),1/40(2006.01),1/38(2006.01) USPC: 42/122,111,125,130	
Applicant HORUS VISION, LLC	

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.
For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Date of completion of this opinion 01 April 2007 (01.04.2007)	Authorized officer Michelle (Shelley) Clement <i>[Signature]</i> Telephone No. 800.786.9199
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Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
☐ filed together with the international application in electronic form.
☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

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Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>11-17, 22-72</u>	YES
	Claims <u>1-10, 18-21</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-72</u>	NO
Industrial applicability (IA)	Claims <u>1-72</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Please See Continuation Sheet

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

V. 2. Citations and Explanations:

1. Claims 1-10, 18-21 lack novelty under PCT Article 33(2) as being anticipated by Reed (US Patent # 4,695,161). Reed discloses a ballistics calculator system for computing targeting information to hit a target, comprising a processor, the processor comprising a ballistics computer program for analyzing information to accurately aim a firearm at a target using a target acquisition device with a reticle, the program using information regarding the target acquisition device and reticle being used, wherein the type of target acquisition device and reticle comprise, a reticle comprising a plurality of secondary horizontal cross-hairs at predetermined distances along a primary vertical cross-hair and a plurality of secondary vertical cross-hairs at predetermined distances along at least some of the secondary horizontal cross-hairs and an output using the secondary horizontal cross-hairs and secondary vertical cross-hairs to identify an aiming point for hitting the target. The reticle comprises a primary vertical and horizontal cross-hair. At least some of the secondary horizontal and vertical cross-hairs are evenly spaced and are connected to form a grid. Information regarding the target acquisition device and reticle being used can include the positional relationship between the target acquisition device and the firearm. The device further comprises a housing, means for mounting the housing in a fixed predetermined position relative to a firearm. The target acquisition device further comprises an objective lens mounted in one end of the housing and an ocular lens mounted in an opposite end. The target acquisition device further comprises a projected image and is configured to display information on a display screen, wherein the information displayed is an image of a reticle.

2. Claims 11-17 and 22-72 lack an inventive step under PCT Article 33(3) as being obvious over Reed in view of Wascher et al. (US Patent # 5,491,546) and Cohen (US Patent # 5,375,072). Although Reed does not expressly disclose the primary vertical and horizontal cross-hairs intersecting at the optical center of the reticle, at least some of the secondary horizontal and vertical cross-hairs having identifying marks, and the reticle including range finding markings on the reticle, Wascher et al. does. Wascher et al. teaches a target acquisition device and reticle, wherein the reticle comprises primary vertical and horizontal cross-hairs that intersect at an optical center of the reticle and wherein at least some of the secondary horizontal and vertical cross-hairs have identifying marks, the reticle further including range finding marks on the reticle. Wascher et al. and Reed are analogous art because they are from the same field of endeavor: target acquisition devices. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the position of the reticle and identifying marks as taught by Wascher et al. with the device as taught by Reed. The suggestion/motivation for doing so would have been to obtain a sighting system that included the range determining features for more accurate aiming as suggested by Wascher et al. Although Reed does not expressly disclose that the device comprises an elevation knob and the system providing an output of how much the knob should be turned to adjust a position of the target acquisition device relative to the firearm, Cohen does. Cohen teaches the processor and the target acquisition device being separate units wherein the processor provides an output informing the user how much a windage knob must be turned to adjust a position of the target acquisition device so that an intersection of the primary vertical cross-section and the primary horizontal cross-hair can be used as the aiming point. Cohen and

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Reed are analogous art because they are from the same field of endeavor: target acquisition devices. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the separation of components as taught by Cohen with the device as taught by Reed, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art and Cohen specifically teaches the components separately.
Claims 1-72 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.